

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DANIEL HIRAM GIBSON,
Plaintiff,
vs.
HOUSING AUTHORITY,
Defendant.

Case No. 2:13-cv-02198-JAD-CWH

FINDINGS AND RECOMMENDATION

Plaintiff submitted an Application to Proceed *in Forma Pauperis* (#1) and Complaint on November 27, 2013. On December 3, 2013, the Court entered an Order denying without prejudice Plaintiff's Application to Proceed *in Forma Pauperis* (#1). *See* Order #2. The Court found Plaintiff's Application incomplete because he did not fully specify his income and expenses. Plaintiff indicates that he receive wages of \$189 per month and has \$0.12 in cash or checking or savings account. However, Plaintiff claims his amount of monthly expenses is zero. The Court is unclear how he is paying for housing, transportation, utilities, and other regular monthly expenses. Because of Plaintiff's failure to fully respond to questions regarding his income and expenses, the Court was unable determine whether he is eligible to proceed *in forma pauperis*. Plaintiff was given until January 2, 2014 to file a completed Application to Proceed *In Forma Pauperis*. Plaintiff failed to submit a completed Application or pay the \$400.00 filing fee by the deadline. In addition, Plaintiff was warned that failure to comply with the Court's December 3, 2013 Order would result in a recommendation to the District Judge that this action be dismissed.

Based on the foregoing and good cause appearing therefore,

RECOMMENDATION

IT IS HEREBY RECOMMENDED that Plaintiff's Application to Proceed *In Forma Pauperis* (#1) be denied with prejudice for failure to file a completed Application by January 2, 2014.

IT IS FURTHER RECOMMENDED that this action be **dismissed** for failure to pay the filing fee.

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED this 3rd day of January, 2014.

C.W. Hoffman, Jr.
United States Magistrate Judge